

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #2	CCRB Case #: 201804541	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/31/2018 1:17 AM	Location of Incident: § 87(2)(b) and the PSA 7 stationhouse	Precinct: 40	18 Mo. SOL 11/30/2019	EO SOL 11/30/2019	
Date/Time CV Reported Thu, 06/07/2018 4:02 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/07/2018 4:02 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Eric Dym	00000	933762	PSA 7
2. POF Nashaly Malave	06803	964630	PSA 7
3. POM Jody Dero	11044	964485	PSA 7
4. SGT Natalie Bautista	01127	926408	PSA 7
5. Officers			PSA 7
6. An officer			PSA 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Douglas Curry	12518	956562	PSA 7
2. SGT Daniel Desalvo	5063	938332	PSA 7
3. POM Tyler Ubben	22865	947559	PSA 7
4. POM John Manzo	16260	960864	040 PCT
5. POF Fresia Maciasburgos	18286	955108	040 PCT
6. POM Martin Peralta	18062	959061	PSA 7
7. POM Ronald Tavarez	20041	959288	PSA 7
8. LT Mark Herman	00000	944648	PSA 7
9. POM John Joyce	05953	961846	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.LT Eric Dym	Force: At § 87(2)(b) in the Bronx, Lieutenant Eric Dym used physical force against § 87(2)(b)	
B.POF Nashaly Malave	Force: At § 87(2)(b) in the Bronx, Police Officer Nashaly Malave used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
C. Officers	Force: At § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)	
D.POM Jody Deroy	Force: At § 87(2)(b) in the Bronx, Police Officer Jody DeRoy used physical force against § 87(2)(b)	
E. An officer	Force: At § 87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b)	
F.SGT Natalie Bautista	Abuse: At § 87(2)(b) in the Bronx, Sergeant Natalie Bautista threatened to arrest § 87(2)(b)	
G.LT Eric Dym	Abuse: At § 87(2)(b) in the Bronx, Lieutenant Eric Dym threatened to arrest § 87(2)(b)	
H.LT Eric Dym	Discourtesy: At § 87(2)(b) in the Bronx, Lieutenant Eric Dym spoke discourteously to § 87(2)(b)	
I.LT Eric Dym	Abuse: At § 87(2)(b) in the Bronx, Lieutenant Eric Dym refused to provide his name to § 87(2)(b)	
J.LT Eric Dym	Abuse: At the PSA 7 stationhouse, Lieutenant Eric Dym refused to provide his name to § 87(2)(b)	
K.SGT Natalie Bautista	Discourtesy: At the PSA 7 stationhouse, Sergeant Natalie Bautista spoke discourteously to § 87(2)(b)	
L.LT Eric Dym	Discourtesy: At the PSA 7 stationhouse, Lieutenant Eric Dym spoke discourteously to § 87(2)(b)	
M.LT Eric Dym	Off. Language: At the PSA 7 stationhouse, Lieutenant Eric Dym made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	

## Case Summary

On June 7, 2018, § 87(2)(b) filed this complaint with the CCRB via telephone.

On May 31, 2018, at approximately 1:17 a.m., § 87(2)(b)'s nephew, § 87(2)(b) was slashed in his face near her apartment building at § 87(2)(b) in the Bronx. § 87(2)(b)'s friend, § 87(2)(b) called the police, and Lieutenant Eric Dym, Sergeant Natalie Bautista, and Police Officer Jody DeRoy of Police Service Area 7 (PSA 7), and numerous additional officers from PSA 7 and the 40<sup>th</sup> Precinct, responded to the scene. § 87(2)(b) and § 87(2)(b) attempted to walk away from police officers because § 87(2)(b) did not want any police contact. Lieutenant Dym told them to remain where they were, and they refused and continued to walk away. § 87(2)(b) was then handcuffed and placed under arrest for obstructing governmental administration and resisting arrest.

§ 87(2)(b)'s son, § 87(2)(b) who was § 87(2)(b) old at the time of the incident, told the officers to get off of § 87(2)(b) and he stepped directly in between her and the officers. He then began conversing with Lieutenant Dym, who allegedly spun him around, pushed him backwards against a gate, and slapped him in his face (**Allegation A – Force: Physical Force**, § 87(2)(g)). Police Officer Nashaly Malave of PSA 7 and three to four unidentified officers then allegedly brought § 87(2)(b) down to the ground and handcuffed him (**Allegation B – Force: Physical Force**, § 87(2)(g)). § 87(2)(b) approached the officers and attempted to separate them from § 87(2)(b) by placing his arms between them. Police Officer DeRoy then allegedly pushed § 87(2)(b) down to the ground and handcuffed him (**Allegation C – Force: Physical Force**, § 87(2)(g)). An unidentified officer told § 87(2)(b)'s friend, § 87(2)(b) to step away from § 87(2)(b) and she refused to comply. This officer then allegedly pushed § 87(2)(b) in her stomach (**Allegation D – Force: Physical Force, alleged** § 87(2)(g)).

§ 87(2)(b)'s daughter, § 87(2)(b) who was § 87(2)(b) old at the time of the incident, began recording the incident on her cell phone. Sergeant Bautista told her to back up and said, “If I tell you again, you’re going to end up in handcuffs,” and, “If you don’t listen, you’ll end up in handcuffs” (**Allegation E – Abuse of Authority: Threat of Arrest**, § 87(2)(g)). Lieutenant Dym allegedly said to § 87(2)(b) “You better back up or you’re going to jail” (**Allegation F – Abuse of Authority: Threat of Arrest**, § 87(2)(g)). Lieutenant Dym told § 87(2)(b) that she had put her hands on him, and he attempted to arrest her, but she ran away and evaded arrest. Once § 87(2)(b) was inside a police vehicle, Lieutenant Dym shouted, “Fuck you!” at her (**Allegation G – Discourtesy: Word**, § 87(2)(g)).

§ 87(2)(b) and § 87(2)(b) were transported to the PSA 7 stationhouse, and § 87(2)(b) was taken to § 87(2)(b) Hospital in an ambulance and was not arrested or summonsed. Both at the scene and at the stationhouse, § 87(2)(b) allegedly asked Lieutenant Dym for his name, and Lieutenant Dym allegedly did not respond (**Allegations H & I – Abuse of Authority: Refusal to Provide Name**, § 87(2)(g)). In the cell area, § 87(2)(b) said, “Fuck you, get out of my face,” and, “Suck my dick,” to Sergeant Bautista, who allegedly repeated these remarks back to her (**Allegation J – Discourtesy: Word**, § 87(2)(g)). § 87(2)(b) also cursed at Lieutenant Dym, who allegedly replied, “Fuck

you, you fat bitch,” “Shut the fuck up,” and, “Suck my dick” (**Allegation K – Discourtesy: Word & Allegation L: Offensive Language: Gender,** § 87(2)(g))

§ 87(2)(b) provided a copy of the video filmed by § 87(2)(b) (IA#78, Board Review 01). Surveillance footage was obtained from the NYC Housing Authority (IA#230, Board Review 02). Body-worn camera (BWC) footage was obtained from the BWCs of Police Officer John Manzo and Police Officer Fresia Macias-Burgos, both of the 40<sup>th</sup> Precinct (IA#126 & 127, Board Review 03 & 04).

### **Findings and Recommendations**

#### **Allegation A – Force: At § 87(2)(b) in the Bronx, Lieutenant Eric Dym used physical force against § 87(2)(b)**

§ 87(2)(b) filed this complaint with the CCRB via telephone on June 7, 2018, and she was interviewed at the CCRB on July 27, 2018. She appeared for a photo viewing interview on May 3, 2019 (Board Reviews 19 and 20). § 87(2)(b) provided a telephone statement on August 3, 2018 (Board Review 05), and § 87(2)(b) provided one on September 19, 2018 (Board Review 06), but they both failed to appear at the CCRB for their scheduled interview appointments.

§ 87(2)(b) gave the CCRB permission to speak to § 87(2)(b) and § 87(2)(b) but contact was unable to be established with either, and § 87(2)(b) failed to bring them to the CCRB for interview appointments despite promising to do so. Lieutenant Dym and Sergeant Bautista were interviewed on October 18, 2018. Police Officer DeRoy was interviewed on November 7, 2018. Sergeant Daniel DeSalvo of the 1<sup>st</sup> Precinct (formerly assigned to PSA 7) was interviewed on November 8, 2018. Police Officer Martin Peralta of PSA 7 was interviewed on January 18, 2019. Police Officer John Manzo of the 40<sup>th</sup> Precinct was interviewed on January 24, 2019. Police Officer Nashaly Malave of PSA 7 was interviewed on May 14, 2019.

§ 87(2)(b) stated that while the officers were placing her under arrest, § 87(2)(b) approached them and told them to get off of her. § 87(2)(b) got in between § 87(2)(b) and the officers. Lieutenant Dym and § 87(2)(b) began conversing with each other, but § 87(2)(b) did not know what they said to each other. § 87(2)(b) did not raise his voice or touch anyone, but he gestured and waved his hands. Approximately five to six minutes after § 87(2)(b) approached § 87(2)(b) Lieutenant Dym spun him around, pushed him backwards in his shoulders, and placed him against a waist-high fence that was less than one step behind him. Lieutenant Dym then slapped § 87(2)(b) with an open palm. § 87(2)(b) was not doing anything with his body besides gesturing, and he did not offer any physical resistance.

§ 87(2)(b) stated that § 87(2)(b) stood right next to § 87(2)(b) and approximately two feet from the officers, and he told the officers to get off his mother. § 87(2)(b) was not sure whether § 87(2)(b) stood between § 87(2)(b) and the officers, but he noted that this was possible. § 87(2)(b) stood still, gestured with his hands, and yelled at the officers. § 87(2)(b) did not know whether the officers were issuing any commands to § 87(2)(b) because everyone was yelling. Approximately five uniformed officers placed § 87(2)(b) against the fence, and then Lieutenant Dym slapped him in the left side of his face with an open palm.

§ 87(2)(b) stated that § 87(2)(b) approached the officers and asked them why they were arresting § 87(2)(b). She did not see § 87(2)(b) attempt to get in between § 87(2)(b) and the officers. Lieutenant Dym and two unidentified officers then grabbed § 87(2)(b) and then Lieutenant Dym attempted to punch him in the face. § 87(2)(b) was not sure whether Lieutenant Dym landed this punch or whether any officer slapped § 87(2)(b).

None of the footage obtained captured Lieutenant Dym's alleged push and slap of § 87(2)(b). In the NYCHA surveillance footage (Board Review 02), at 01:18:55 a.m., a physical struggle is seen in the distance, and the officers appear to bring someone down to the ground, but the camera is too far away to clearly capture who this was or what exactly happened.

Lieutenant Dym stated that § 87(2)(b) attempted to pull § 87(2)(b) away from the officers after she was handcuffed. The officers told § 87(2)(b) to get back and move away, and then § 87(2)(b) pushed Lieutenant Dym one time in his chest with both hands. § 87(2)(b) then stood in a "fighting stance" by clenching his fists and raising them towards his torso. Lieutenant Dym pushed § 87(2)(b) pulled his arms behind his back, and handcuffed him. Lieutenant Dym did not recall which part of § 87(2)(b)'s body he pushed, or whether he pushed him against the fence. Lieutenant Dym stated that he did not do anything else to gain control of § 87(2)(b) and he denied slapping § 87(2)(b) but he noted that it was possible that he hit § 87(2)(b)'s face because he had extended his palms out from his center-mass when he pushed § 87(2)(b).

On the Threat, Resistance, and Injury (TRI) Report prepared by Lieutenant Dym for § 87(2)(b) (Board Review 07), Lieutenant Dym indicated that he used a hand strike against § 87(2)(b) in order to overcome his resistance and aggression. In his CCRB interview, Lieutenant Dym stated that by this, he meant that he pushed § 87(2)(b) back with his palm. Lieutenant Dym did not know whether this documented hand strike referred to anything else, but he noted that this was possible. Lieutenant Dym also indicated on this report that § 87(2)(b) menaced the officers and threatened to cut the officers' faces.

Sergeant Bautista's statement was generally consistent with Lieutenant Dym's. She did not know whether Lieutenant Dym pushed § 87(2)(b) against a fence or slapped him.

Police Officer Peralta did not recall whether Lieutenant Dym pushed anyone against the fence or slapped anyone in the face. He did not recall anyone being handcuffed besides § 87(2)(b).

Police Officer Manzo stated that there was no physical struggle between civilians and officers at § 87(2)(b) in his presence. Police Officer Manzo did not see any officer push § 87(2)(b) against the fence or slap him.

Police Officer DeRoy did not recall § 87(2)(b) being present at the scene. He stated that Lieutenant Dym did not push or slap anyone, or use any force against anyone in his presence.

Sergeant DeSalvo did not recall whether he saw the officers handcuff § 87(2)(b) and he did not see Lieutenant Dym use any force to apprehend him. When shown the video filmed by § 87(2)(b) (Board Review 01), which shows § 87(2)(b) on the ground and

surrounded by officers, Sergeant DeSalvo stated that the events captured in this video took place before he arrived at the scene.

§ 87(2)(b), § 87(2)(g)

**Allegation B – Force: At § 87(2)(b) in the Bronx, Police Officer Nashaly Malave used physical force against § 87(2)(b)**

**Allegation C – Force: At § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)**

§ 87(2)(b) stated that after Lieutenant Dym slapped § 87(2)(b) in his face, he told other officers to arrest him. Four to five male officers in blue uniforms, whom § 87(2)(b) was unable to further describe, then brought § 87(2)(b) down to the ground, but § 87(2)(b) did not know how they did so. § 87(2)(b) landed on his side, propped his body up with his elbow, and moved his arms while the officers attempted to handcuff him. In her photo viewing interviews on May 3, 2019, § 87(2)(b) identified Police Officer Malave as one of the officers who struggled with § 87(2)(b) on the ground.

§ 87(2)(b) stated that approximately five uniformed officers surrounded § 87(2)(b) after Lieutenant Dym slapped him, but he was unable to describe these officers.

§ 87(2)(b) did not know whether § 87(2)(b) was on the ground at any point, and he made no mention of any officer using force against § 87(2)(b) after Lieutenant Dym slapped him.

§ 87(2)(b) stated that § 87(2)(b) was not on the ground at any point.

In the video filmed by § 87(2)(b) (Board Review 01), § 87(2)(b) is seen on the ground while numerous unidentified uniformed officers appear to be attempting to handcuff him. However, the moment § 87(2)(b) is brought down to the ground is not captured in this video. In the NYCHA surveillance footage (Board Review 02), at 01:18:55 a.m., a physical struggle is seen in the distance, and the officers appear to bring someone down to the ground, but the camera is too far away to clearly capture who this was or what exactly happened. None of the other videos obtained capture any additional instances of force.

Police Officer Malave had no memory of § 87(2)(b) being brought down to the ground or of a physical struggle taking place with § 87(2)(b). She was unable to identify any of the officers in the video filmed by § 87(2)(b) who are struggling with § 87(2)(b) on the ground, and she said she was not involved in this struggle.

Lieutenant Dym stated that he handcuffed § 87(2)(b) and he did not believe § 87(2)(b) was brought down to the ground. Upon viewing § 87(2)(b)'s video, Lieutenant Dym stated that he could not tell who was on the ground, and he was unable to identify the officers surrounding the individual on the ground because their backs were turned towards the camera. The TRI Report prepared by Lieutenant Dym for § 87(2)(b) (Board Review 07) does not state that a forcible takedown was used against § 87(2)(b).

Police Officer Peralta stated that he did not see anyone on the ground besides § 87(2)(b). Sergeant Bautista stated that she did not know which officers apprehended § 87(2)(b). Police Officer DeRoy, Police Officer Manzo, and Sergeant DeSalvo stated that they did not see any officer bring anyone down to the ground. None of the officers interviewed recognized the officers who were on the ground with § 87(2)(b) in § 87(2)(b)'s video.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation D – Force: At § 87(2)(b), Police Officer Jody DeRoy used physical force against § 87(2)(b).**

§ 87(2)(b) stated that after § 87(2)(b) was brought down to the ground, he approached § 87(2)(b) and the officers and stood still right behind them without getting between them. He placed his hand on an unknown officer's shoulder and asked the officers why they were arresting his aunt and cousin. A § 87(2)(b) male officer in a blue uniform whom § 87(2)(b) was unable to further describe then handcuffed § 87(2)(b) behind his back. § 87(2)(b) asked if he was being arrested, and then the same officer pushed him in his chest down to the ground. § 87(2)(b) fell backwards and landed on top of his handcuffs.

§ 87(2)(b) stated that § 87(2)(b) began to “go wild” because he saw § 87(2)(b) being arrested. He told the officers to get off of § 87(2)(b) and stood face-to-face with the officers who were apprehending him. § 87(2)(b) attempted to prevent the officers from arresting § 87(2)(b) by placing his arms between them and attempting to separate them. Plainclothes officers whom § 87(2)(b) was unable to describe then brought § 87(2)(b) down to the ground, but § 87(2)(b) did not know how. § 87(2)(b) landed on his chest and was then handcuffed.

§ 87(2)(b) stated that the officers attempted to ask § 87(2)(b) questions, and he would not cooperate with them. An unidentified uniformed Hispanic female officer and three to four unidentified male officers then grabbed § 87(2)(b) by his arms, swept his feet out from underneath him, and placed his stomach onto the ground. § 87(2)(b) noted that this was a controlled takedown and that § 87(2)(b) did not fall. An officer then held § 87(2)(b) against the ground and handcuffed him.

In the NYCHA surveillance footage (Board Review 02), at 01:18:55 a.m., a physical struggle is seen in the distance, and the officers appear to bring someone down to the ground, but the camera is too far away to clearly capture who this was or what exactly happened. None of the other videos obtained capture any additional instances of force.

No Threat, Resistance, and Injury Report was prepared for § 87(2)(b) (Board Review 08).

Police Officer DeRoy stated that he handcuffed § 87(2)(b) after being ordered to do so by Lieutenant Dym. He stated that § 87(2)(b) was “very passive” and did not offer any physical resistance, and that he did not have to use any force to handcuff him. Police Officer DeRoy denied bringing anyone down to the ground and did not see any other officer do so.

Lieutenant Dym stated that § 87(2)(b) got between § 87(2)(b) and the officers while the officers attempted to apprehend § 87(2)(b). Lieutenant Dym was “pretty sure” § 87(2)(b) pushed him, but he did not know recall where § 87(2)(b) touched him. He did not recall whether § 87(2)(b) was on the ground at any point, nor did he recall whether he saw § 87(2)(b) being apprehended.

Police Officer Peralta stated that Lieutenant Dym pulled § 87(2)(b) down to the ground by his arm and ordered the other officers to arrest him, but he did not recall what happened immediately prior to Lieutenant Dym bringing § 87(2)(b) down on the ground.

Sergeant Bautista did not know whether § 87(2)(b) was on the ground at any point. Sergeant DeSalvo and Police Officer Manzo did not know whether § 87(2)(b) was handcuffed and did not see him on the ground.

Police Officer Malave did not recall § 87(2)(b) attempting to interfere with the arrest of any individual, nor did she recall any force being used against § 87(2)(b) in her presence.

§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

**Allegation E – Force: At § 87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b)**

§ 87(2)(b) stated in her telephone statement that she told the officers that they needed to get § 87(2)(b) off of the ground because he still had an open wound on his face. An unidentified officer, whom § 87(2)(b) described as uniformed, light-skinned male in his 30s who was 5’7” to 5’8” tall and had an average build, brown hair, and brown eyes, told § 87(2)(b) to step back, and she refused to comply because she wanted to make sure that § 87(2)(b) was okay. This officer then allegedly pushed § 87(2)(b) in her stomach one time. § 87(2)(b) was visibly (approximately five months) pregnant at the time. § 87(2)(b) later began to feel pain and her breathing became labored, and she was taken to § 87(2)(b) Hospital via ambulance. At the hospital, physicians performed an ultrasound to check for bleeding in her womb, and they did not find any.

§ 87(2)(b) stated that when she returned home following her arrest, she was told that an officer had pushed § 87(2)(b) but she did not see this while she was at § 87(2)(b).





end up in handcuffs.” At 00:29, Lieutenant Dym walks away from § 87(2)(b) approaches § 87(2)(b) and says, “You put your hands on me!” § 87(2)(b) denies this and then runs away from Lieutenant Dym. § 87(2)(b) is not seen touching Lieutenant Dym in this video. In the surveillance footage from NYCHA (Board Review 02), § 87(2)(b) is seen running into § 87(2)(b) while she is being chased by Lieutenant Dym and other unidentified officers, but the camera is too far away to see what § 87(2)(b) was doing before she ran. Police Officer Manzo’s and Police Officer Macias-Burgos’ body-worn cameras (Board Review 03, 04) did not capture this interaction.

Lieutenant Dym stated that at some point while he was assisting in the handcuffing and apprehension of § 87(2)(b) and § 87(2)(b) pushed him and tried to pull his arms. Lieutenant Dym intended to arrest § 87(2)(b) and attempted to effect her arrest, but she ran into § 87(2)(b). Lieutenant Dym did not enter the building with § 87(2)(b) because he did not want to lose track of the other officers and the arrestees, and because he was responsible for making sure the arrestees received the medical attention they needed. Lieutenant Dym did not recall § 87(2)(b) being told she would end up in handcuffs if she did not back away, and he did not recall threatening to arrest her.

Sergeant Bautista stated that before § 87(2)(b) was handcuffed, a group of young girls attempted to pull her away from Lieutenant Dym. Sergeant Bautista stated that the girls could have been placed under arrest for obstructing governmental administration because they attempted to prevent Sergeant Bautista from placing § 87(2)(b) under arrest, but she also stated that she was not aware of the girls’ actions while she was arresting § 87(2)(b). Sergeant Bautista did not recall a teenage girl touching Lieutenant Dym. Sergeant Bautista did not know whether she or Lieutenant Dym told any of these girls that they could be arrested or handcuffed, nor did she know whether Lieutenant Dym chased § 87(2)(b) on foot.

Upon watching § 87(2)(b)’s video, Sergeant Bautista identified herself as the officer who said, “If you don’t listen to me, you’re going to end up in handcuffs.” Sergeant Bautista stated that statement while attempting to place § 87(2)(b) under arrest, and that she directed this statement towards a group of people that she had previously told to step back.

§ 87(2)(g) They did not recall Sergeant Bautista threatening to arrest § 87(2)(b) nor did they recall Lieutenant Dym chasing § 87(2)(b) on foot. Police Officer Manzo did not recall whether he was present at the scene during any of the events that were captured in § 87(2)(b)’s video, and Sergeant DeSalvo stated that he was not at the scene during these events.

Police Officer Malave stated that she saw Lieutenant Dym and Sergeant Bautista run into § 87(2)(b) but she did not know why. She did not recall Lieutenant Dym chasing § 87(2)(b). Police Officer Malave did not recall anyone besides § 87(2)(b) being told she would be arrested.

Patrol Guide Procedure 208-01 (Board Review 09) states that an officer may arrest an individual without a warrant when the officer has reasonable cause to believe the individual committed in his presence. According to New York State Penal Law 195.05 (Board Review 09), a person is

[illegible]

In Police Officer Manzo's BWC footage, § 87(2)(b) is seen and heard using numerous profanities towards the two officers who are walking her towards a police vehicle. After she is placed inside the vehicle, as its door is being closed, a male voice shouts, "Fuck you!" Neither § 87(2)(b) nor § 87(2)(b) mentioned hearing this utterance.

According to Patrol Guide Procedure 200-02 (Board Review 09), the NYPD is committed to “treating every citizen with compassion, courtesy, professionalism, and respect.” Officers may use profanities “in the context of a dynamic situation over which [he or she is] attempting to gain control,” but many not do so when it “[serves] no legitimate purpose but to belittle” a civilian (PD v. Pichardo, DAO DCT Case Number 2015-15012, Board Review 09).

§ 87(2)(b), § 87(2)(g)

**Allegation I – Abuse of Authority: At § 87(2)(b) in the Bronx, Lieutenant Eric Dym refused to provide his name to § 87(2)(b)**

**Allegation J – Abuse of Authority: At the PSA 7 stationhouse, Lieutenant Eric Dym refused to provide his name to § 87(2)(b)**

**Allegation K – Discourtesy: At the PSA 7 stationhouse, Sergeant Natalie Bautista spoke discourteously to § 87(2)(b)**

**Allegation L – Discourtesy: At the PSA 7 stationhouse, Lieutenant Eric Dym spoke discourteously to § 87(2)(b)**

**Allegation M – Offensive Language: At the PSA 7 stationhouse, Lieutenant Eric Dym made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)**

§ 87(2)(b) stated that both at § 87(2)(b) and in the cell area at the PSA 7 stationhouse, she asked Lieutenant Dym for his name many times. When she requested his name in the cell, she was screaming and stood face-to-face with Lieutenant Dym. Lieutenant Dym allegedly ignored her requests for his name and did not respond. While she was in the cell, § 87(2)(b) said, “Fuck you, get out of my face,” and, “Suck my dick,” to Sergeant Bautista, who allegedly repeated these remarks back to her. § 87(2)(b) said, “Fuck you,” and, “Suck my dick,” to Lieutenant Dym, who allegedly replied, “Fuck you, you fat bitch,” “Shut the fuck up,” and, “Suck my dick.”

§ 87(2)(b) stated that at § 87(2)(b), § 87(2)(b) asked an unidentified officer for his name, but he did not know how the officer responded.

§ 87(2)(b) stated that at approximately 2:00 a.m., she went to the PSA 7 stationhouse to obtain Lieutenant Dym’s name, which she ultimately obtained from another officer. § 87(2)(b) overheard § 87(2)(b) being questioned in an interview room about the slashing of § 87(2)(b). § 87(2)(b) was unaware of any officer using profanities or foul language towards § 87(2)(b).

None of these alleged utterances are captured on any of the videos obtained for this incident.

Lieutenant Dym stated that he did not recall § 87(2)(b) requesting his name. Lieutenant Dym did not believe he said, “Fuck you, you fat bitch,” to § 87(2)(b) and he denied saying, “Shut the fuck up,” and, “Suck my dick,” to her. Lieutenant Dym did not recall whether he used any profanities towards § 87(2)(b). He denied making any offensive remarks in reference to her gender, such as “bitch,” or referring to her weight in an offensive manner. Lieutenant Dym stated that Sergeant Bautista established a rapport with § 87(2)(b) through dialogue, but he did not recall the details of their conversation. He stated that Sergeant Bautista did not say, “Fuck you, get out of my face,” or, “Suck my dick,” to § 87(2)(b).

Sergeant Bautista did not hear § 87(2)(b) request Lieutenant Dym’s name at § 87(2)(b). She stated that she did not hear, see, or interact with § 87(2)(b) at the stationhouse, and she denied using profanities towards her. Sergeant Bautista did not hear Lieutenant Dym say, “Fuck you, you fat bitch,” or, “Shut the fuck up,” to § 87(2)(b).

Police Officer Manzo stated that § 87(2)(b) did not ask any officer for his name in his presence. He was unaware of § 87(2)(b) interacting with any officer at the stationhouse.

besides himself and his partner, Police Officer Fresia Macias-Burgos of the 40<sup>th</sup> Precinct. Police Officer Manzo did not know whether Lieutenant Dym, said, “Fuck you, you fat bitch,” or, “Shut the fuck up,” or whether Sergeant Bautista said, “Fuck you, get out of my face,” or, “Suck my dick.” He was unaware of any officer using profanities towards § 87(2)(b).

Police Officer DeRoy stated that he saw § 87(2)(b) in a cell at the PSA 7 stationhouse, but he did not see or hear Sergeant Bautista or Lieutenant Dym interact with her at the stationhouse, and he did not hear any of the alleged discourteous or offensive remarks made towards her at the stationhouse. He did not recall whether § 87(2)(b) requested any officer’s name.

Police Officer Peralta did not recall encountering § 87(2)(b) at the PSA 7 stationhouse, and Sergeant DeSalvo stated that he did not see or hear § 87(2)(b) at the stationhouse. Neither heard any of the alleged utterances or heard her request Lieutenant Dym’s name.

Police Officer Malave processed § 87(2)(b)’s arrest in the cell area, and she did not recall seeing Lieutenant Dym or Sergeant Bautista in the cell area with § 87(2)(b) at the stationhouse. She did not recall § 87(2)(b) asking Lieutenant Dym for his name, nor did she recall any officer saying, “Fuck you, get out of my face,” “Suck my dick,” or, “Fuck you, you fat bitch” to § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

### **Allegations Not Pleaded**

- § 87(2)(b) stated that in addition to Lieutenant Dym’s name, she had also requested his shield number and he did not respond. Since, by rank, Lieutenant Dym does not have a shield number, no Refusal to Provide Shield Number allegation is pleaded in regards.

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a complainant or victim. § 87(2)(b).
- Lieutenant Dym has been a member of service for 15 years and has been a subject in 38 additional allegations in 17 cases with one substantiated allegation.
  - 201114190 involved a substantiated Stop allegation against Lieutenant Dym. The Board recommended command discipline, and the NYPD imposed no penalty against Lieutenant Dym.
  - § 87(2)(g)
- Police Officer Malave has been a member of service for one year, and this is the first CCRB complaint to which she has been a subject.

- Police Officer DeRoy has been a member of service for one year, and this is the first CCRB complaint to which he has been a subject.
- Sergeant Natalie Bautista has been a member of service for 18 years and has been a subject in 13 additional allegations in six cases with no substantiated allegations. § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of April 19, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 11).
- § 87(2)(b)
- § 87(2)(b)
- According to OCA, § 87(2)(b) and § 87(2)(b) have no history of convictions in New York City (Board Review 12).

Squad No.: 02

Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date